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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/640,980  | 08/14/2003  | Lawrence B. Jansen   | NA1.028             | 9232             |
| 7590  | 10/17/2005  |                      | EXAMINER            |                  |
| Timothy E. Siegel<br>Suite 206<br>1868 Knapps Alley<br>West Linn, OR 97068-4644 |             |                      | NASSER, ROBERT L    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3736                |                  |
| DATE MAILED: 10/17/2005   |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/640,980

Applicant(s)

JANSEN ET AL.

Examiner

Robert L. Nasser

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 10-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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Applicant's election of Group I, claims 1-9 in the reply filed on 8/19/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Objections***

Claims 6-7 are objected to. These claims refer to the nubs. The antecedent basis is for at least one nub, which may not be plural. Hence, the proper way to refer back to the nubs is to recite that each of said at least one nub ... The claim will not be treated as requiring at least one nub.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 is rejected in that it states that the active surface is circumferential to the body. However, it has previously been recited that surface was part of the body. It is unclear how something can be circumferential to itself.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gough et al

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4703756. Gough et al shows a device including an electrochemically active surface, a membrane system 14 and 22 containing an enzyme (see column 4, line 36), a membrane 20 adhering to the electrochemically active surface, and at least one nub 32 of a dielectric material (glass) extending outwardly from the active surface and supporting the membrane. With respect to claim 2, the nub is an annular plate in as much as the nub of Gough appears to have the same structure as the nub of applicant's disclosure. With respect to claim 3, the active surface is part of a lengthwise body. With respect to claim 4, the body has a circular cross section. With respect to claim 5, the active surface is located circumferentially around a lengthwise body 24 of circular cross section. Claim 6 is rejected in that the nubs are annular plates. Claim 7 is rejected in that the nub is longitudinally displaced from the active surface. Claim 8 is rejected in that there are multiple membranes 14 and 22. Claim 9 is rejected in that the membrane system includes an enzyme layer. 22, and the nub extends transversely from the active surface.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Catalan et al 4565666, Maker 3957613, Nerdish 3898147, Ward et al 2002/0169369, Schultz 4891125, and Schulman et al 6259937 all show devices with dielectric layers and electrochemically active surfaces.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is (571) 272-4731. The examiner can normally be reached on Mon-Fri, variable hours.

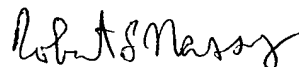
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert L. Nasser  
Primary Examiner  
Art Unit 3736

RLN  
October 11, 2005



ROBERT L. NASSER  
PRIMARY EXAMINER